

By the Committee on Commerce and Tourism; and Senator Altman

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1                                   A bill to be entitled  
2           An act relating to public lodging and public food  
3           service establishments; providing a short title;  
4           amending s. 509.144, F.S.; revising definitions;  
5           providing additional penalties for the offense of  
6           unlawfully distributing handbills in a public lodging  
7           establishment; specifying that certain items used in  
8           committing such offense are subject to seizure and  
9           forfeiture under the Florida Contraband Forfeiture  
10          Act; amending s. 901.15, F.S.; authorizing a law  
11          enforcement officer to arrest a person without a  
12          warrant when there is probable cause to believe the  
13          person violated s. 509.144, F.S., and where the owner  
14          or manager of the public lodging establishment signs  
15          an affidavit containing information supporting the  
16          determination of probable cause; amending s. 932.701,  
17          F.S.; revising the definition of the term  
18          "contraband"; amending s. 509.032, F.S.; clarifying  
19          provisions relating to the preemption to the state of  
20          the regulation of public lodging and public food  
21          service establishments; amending s. 509.261, F.S.;  
22          providing for remedial training in response to a  
23          violation of laws or rules governing public lodging  
24          and public food service establishments; providing that  
25          the terms and provisions of the act do not affect or  
26          impede the provisions of a specified state statute or  
27          any protection or right guaranteed by the Second  
28          Amendment to the United States Constitution; providing  
29          an effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Tourist Safety Act."

Section 2. Section 509.144, Florida Statutes, is amended to read:

509.144 Prohibited handbill distribution in a public lodging establishment; penalties.—

(1) As used in this section, the term:

(a) "Handbill" means a flier, leaflet, pamphlet, or other written material that advertises, promotes, or informs persons about an individual, business, company, or food service establishment, but does ~~shall~~ not include employee communications permissible under the National Labor Relations Act, other communications protected by the First Amendment to the United States Constitution, or communications that relate to the public health, safety, or welfare which are distributed by a federal, state, or local governmental entity or a public or private utility.

(b) "Without permission" means without the expressed written ~~or oral~~ permission of the owner, manager, or agent of the owner or manager of the public lodging establishment where a sign is posted prohibiting advertising or solicitation in the manner provided in subsection (5) ~~(4)~~.

(c) "At or in a public lodging establishment" means any property under the sole ownership or control of a public lodging establishment.

(2) Any person ~~individual~~, agent, contractor, or volunteer

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59 who is acting on behalf of a person ~~an individual~~, business,  
60 company, or food service establishment and who, without  
61 permission, delivers, distributes, or places, or attempts to  
62 deliver, distribute, or place, a handbill at or in a public  
63 lodging establishment commits a misdemeanor of the first degree,  
64 punishable as provided in s. 775.082 or s. 775.083.

65 (3) Any person who, without permission, directs another  
66 person to deliver, distribute, or place, or attempts to deliver,  
67 distribute, or place, a handbill at or in a public lodging  
68 establishment commits a misdemeanor of the first degree,  
69 punishable as provided in s. 775.082 or s. 775.083. Any person  
70 sentenced under this subsection shall be ordered to pay a  
71 minimum fine of \$1,000 ~~\$500~~ in addition to any other penalty  
72 imposed by the court.

73 (4) In addition to any other penalty imposed by the court,  
74 a person who violates subsection (2) or subsection (3):

75 (a) A second time shall be ordered to pay a minimum fine of  
76 \$2,000.

77 (b) A third or subsequent time shall be ordered to pay a  
78 minimum fine of \$3,000.

79 (5) ~~(4)~~ For purposes of this section, a public lodging  
80 establishment that intends to prohibit advertising or  
81 solicitation, as described in this section, at or in such  
82 establishment must comply with the following requirements when  
83 posting a sign prohibiting such solicitation or advertising:

84 (a) There must appear prominently on any sign referred to  
85 in this subsection, in letters of not less than 2 inches in  
86 height, the terms "no advertising" or "no solicitation" or terms  
87 that indicate the same meaning.

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88 (b) The sign must be posted conspicuously.

89 (c) If the main office of the public lodging establishment  
90 is immediately accessible by entering the office through a door  
91 from a street, parking lot, grounds, or other area outside such  
92 establishment, the sign must be placed on a part of the main  
93 office, such as a door or window, and the sign must face the  
94 street, parking lot, grounds, or other area outside such  
95 establishment.

96 (d) If the main office of the public lodging establishment  
97 is not immediately accessible by entering the office through a  
98 door from a street, parking lot, grounds, or other area outside  
99 such establishment, the sign must be placed in the immediate  
100 vicinity of the main entrance to such establishment, and the  
101 sign must face the street, parking lot, grounds, or other area  
102 outside such establishment.

103 (6) Any personal property, including, but not limited to,  
104 any vehicle of any kind, item, object, tool, device, weapon,  
105 machine, money, securities, books, or records, which is used or  
106 attempted to be used as an instrumentality in the commission of,  
107 or in aiding and abetting in the commission of, a person's third  
108 or subsequent violation of this section, whether or not  
109 comprising an element of the offense, is subject to seizure and  
110 forfeiture under the Florida Contraband Forfeiture Act.

111 Section 3. Subsection (16) is added to section 901.15,  
112 Florida Statutes, to read:

113 901.15 When arrest by officer without warrant is lawful.—A  
114 law enforcement officer may arrest a person without a warrant  
115 when:

116 (16) The officer has determined that he or she has probable

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117 cause to believe that a violation of s. 509.144 has been  
118 committed and where the owner or manager of the public lodging  
119 establishment in which the violation occurred signs an affidavit  
120 containing information that supports the officer's determination  
121 of probable cause.

122 Section 4. Paragraph (a) of subsection (2) of section  
123 932.701, Florida Statutes, is amended to read:

124 932.701 Short title; definitions.—

125 (2) As used in the Florida Contraband Forfeiture Act:

126 (a) "Contraband article" means:

127 1. Any controlled substance as defined in chapter 893 or  
128 any substance, device, paraphernalia, or currency or other means  
129 of exchange that was used, was attempted to be used, or was  
130 intended to be used in violation of any provision of chapter  
131 893, if the totality of the facts presented by the state is  
132 clearly sufficient to meet the state's burden of establishing  
133 probable cause to believe that a nexus exists between the  
134 article seized and the narcotics activity, whether or not the  
135 use of the contraband article can be traced to a specific  
136 narcotics transaction.

137 2. Any gambling paraphernalia, lottery tickets, money,  
138 currency, or other means of exchange which was used, was  
139 attempted, or intended to be used in violation of the gambling  
140 laws of the state.

141 3. Any equipment, liquid or solid, which was being used, is  
142 being used, was attempted to be used, or intended to be used in  
143 violation of the beverage or tobacco laws of the state.

144 4. Any motor fuel upon which the motor fuel tax has not  
145 been paid as required by law.

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146           5. Any personal property, including, but not limited to,  
147 any vessel, aircraft, item, object, tool, substance, device,  
148 weapon, machine, vehicle of any kind, money, securities, books,  
149 records, research, negotiable instruments, or currency, which  
150 was used or was attempted to be used as an instrumentality in  
151 the commission of, or in aiding or abetting in the commission  
152 of, any felony, whether or not comprising an element of the  
153 felony, or which is acquired by proceeds obtained as a result of  
154 a violation of the Florida Contraband Forfeiture Act.

155           6. Any real property, including any right, title,  
156 leasehold, or other interest in the whole of any lot or tract of  
157 land, which was used, is being used, or was attempted to be used  
158 as an instrumentality in the commission of, or in aiding or  
159 abetting in the commission of, any felony, or which is acquired  
160 by proceeds obtained as a result of a violation of the Florida  
161 Contraband Forfeiture Act.

162           7. Any personal property, including, but not limited to,  
163 equipment, money, securities, books, records, research,  
164 negotiable instruments, currency, or any vessel, aircraft, item,  
165 object, tool, substance, device, weapon, machine, or vehicle of  
166 any kind in the possession of or belonging to any person who  
167 takes aquaculture products in violation of s. 812.014(2)(c).

168           8. Any motor vehicle offered for sale in violation of s.  
169 320.28.

170           9. Any motor vehicle used during the course of committing  
171 an offense in violation of s. 322.34(9)(a).

172           10. Any photograph, film, or other recorded image,  
173 including an image recorded on videotape, a compact disc,  
174 digital tape, or fixed disk, that is recorded in violation of s.

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175 810.145 and is possessed for the purpose of amusement,  
176 entertainment, sexual arousal, gratification, or profit, or for  
177 the purpose of degrading or abusing another person.

178 11. Any real property, including any right, title,  
179 leasehold, or other interest in the whole of any lot or tract of  
180 land, which is acquired by proceeds obtained as a result of  
181 Medicaid fraud under s. 409.920 or s. 409.9201; any personal  
182 property, including, but not limited to, equipment, money,  
183 securities, books, records, research, negotiable instruments, or  
184 currency; or any vessel, aircraft, item, object, tool,  
185 substance, device, weapon, machine, or vehicle of any kind in  
186 the possession of or belonging to any person which is acquired  
187 by proceeds obtained as a result of Medicaid fraud under s.  
188 409.920 or s. 409.9201.

189 12. Any personal property, including, but not limited to,  
190 any vehicle of any kind, item, object, tool, device, weapon,  
191 machine, money, securities, books, or records, which is used or  
192 attempted to be used as an instrumentality in the commission of,  
193 or in aiding and abetting in the commission of, a person's third  
194 or subsequent violation of s. 509.144, whether or not comprising  
195 an element of the offense.

196 Section 5. Subsection (7) of section 509.032, Florida  
197 Statutes, is amended to read:

198 509.032 Duties.—

199 (7) PREEMPTION AUTHORITY.—The regulation of public lodging  
200 establishments and public food service establishments,  
201 including, but not limited to, ~~the inspection of public lodging~~  
202 ~~establishments and public food service establishments for~~  
203 ~~compliance with the sanitation standards, inspections, adopted~~

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204 ~~under this section, and the regulation of food safety protection~~  
205 ~~standards for required~~ training and testing of ~~food service~~  
206 ~~establishment personnel,~~ and matters related to the nutritional  
207 content and marketing of foods offered in such establishments,  
208 are preempted to the state. This subsection does not preempt the  
209 authority of a local government or local enforcement district to  
210 conduct inspections of public lodging and public food service  
211 establishments for compliance with the Florida Building Code and  
212 the Florida Fire Prevention Code, pursuant to ss. 553.80 and  
213 633.022.

214 Section 6. Subsection (1) of section 509.261, Florida  
215 Statutes, is amended to read:

216 509.261 Revocation or suspension of licenses; fines;  
217 procedure.—

218 (1) Any public lodging establishment or public food service  
219 establishment that has operated or is operating in violation of  
220 this chapter or the rules of the division, operating without a  
221 license, or operating with a suspended or revoked license may be  
222 subject by the division to:

223 (a) Fines not to exceed \$1,000 per offense;

224 (b) Mandatory completion attendance, at personal expense,  
225 of a remedial at an educational program administered sponsored  
226 by a food safety training program provider whose program has  
227 been approved by the division, as provided in s. 509.049 the  
228 Hospitality Education Program; and

229 (c) The suspension, revocation, or refusal of a license  
230 issued pursuant to this chapter.

231 Section 7. The terms and provisions of the act do not  
232 affect or impede the provisions of s. 790.251, Florida Statutes,

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233 or any other protection or right guaranteed by the Second  
234 Amendment to the United States Constitution.

235 Section 8. This act shall take effect October 1, 2011.